

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

CT102 LLC d/b/a Metro Motors and H.
Jeffrey Baker,

Plaintiffs,

v.

Civil Action No.:1:20-cv-356-MSM-PAS

Automotive Finance Corporation d/b/a AFC;
NextGear Capital, Inc.; Manheim, Inc.;
and ADESA, Inc.

Defendants.

NEXTGEAR CAPITAL, INC.’S
MOTION TO STRIKE JURY DEMAND

Pursuant to Rule 12(f) of the Federal Court Rules of Civil Procedure, Defendant, NextGear Capital, Inc. (“NextGear”), respectfully moves this Court for an order striking the demand for jury contained in the Second Amended Complaint of Plaintiffs CT102 LLC d/b/a Metro Motors and H. Jeffrey Baker (“Plaintiffs”). [See ECF No. 42]. Should this Court not dismiss Plaintiffs’ Second Amended Complaint in its entirety or order this case to arbitration per NextGear’s Motion to Dismiss, or in the Alternative to Compel Mandatory Arbitration (filed contemporaneously herewith), then this Court should order that any of Plaintiffs’ remaining claims must be heard at a bench trial. Both Plaintiffs contractually waived their rights to a jury in the same agreements that Plaintiffs relied upon in their Second Amended Complaint. In support of this Motion, NextGear submits its accompanying memorandum of law and the exhibit referenced therein.

WHEREFORE, NextGear Capital, Inc. respectfully requests that this Court strike the Plaintiffs' demand for jury trial in their Second Amended Complaint and order that any claims that survive dismissal of NextGear's Motion to Dismiss, or in the Alternative to Compel Mandatory Arbitration shall be heard and decided in a bench trial.

Respectfully submitted,
DEFENDANT
NEXTGEAR CAPITAL, INC.
by counsel,

Dated : Nov. 8, 2021

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CERTIFICATE OF SERVICE

I certify that the foregoing document was electronically filed with the Clerk of the Court on the 8th day of November, 2021, and that it is available for viewing and downloading from the Court's CM/ECF system. All counsel of record for represented parties have been served by electronic means on the date this document was filed. All parties who are self-represented or whose counsel have not yet entered an appearance have been served by U.S. Mail, first class postage prepaid, and email on the date this document was filed.

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